



**MINUTES**  
**of the**  
**THREE-HUNDRED-EIGHTH MEETING**  
**of the**  
**LEGISLATIVE COUNCIL**  
**June 26, 2007**  
**Santa Fe**

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The three-hundred-seventh meeting of the Legislative Council was called to order on Tuesday, June 26, 2007, at 10:45 a.m. in Room 307 of the State Capitol by Speaker of the House Ben Lujan, co-chair.

**Present**

Senator Ben D. Altamirano, Co-Chair  
Representative Ben Lujan, Co-Chair  
Senator Carlos R. Cisneros  
Senator Kent L. Cravens  
Representative Daniel R. Foley  
Senator Stuart Ingle  
Senator Timothy Z. Jennings  
Representative Rhonda S. King  
Representative W. Ken Martinez  
Senator Michael S. Sanchez  
Representative Sheryl Williams Stapleton  
Representative Thomas C. Taylor  
Representative Jeannette O. Wallace

**Special Advisory Members Present**

Senator Dianna J. Duran  
Senator Mary Jane M. Garcia  
Representative Antonio Lujan  
Representative James Roger Madalena  
Senator Cisco McSorley  
Senator John Arthur Smith

**Guests**

Representative Danice Picraux  
Representative Jeff Steinborn

**Staff**

Paula Tackett, Director, Legislative Council Service (LCS)  
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS  
Raúl Burciaga, Assistant Director for Drafting Services, LCS  
Jeret Fleetwood, Locator Coordinator, LCS

**Absent**

Senator Pete Campos  
Representative Rick Miera  
Senator Leonard Lee Rawson

**Special Advisory Members Absent**

Representative Janice E. Arnold-Jones  
Representative Donald E. Bratton  
Senator Steven P. Neville  
Representative Al Park  
Senator Lidio G. Rainaldi  
Representative Peter Wirth

The minutes of the May 14, 2007 meeting of the council were approved as submitted.

Ms. Tackett introduced the two LCS law student interns, Zach Taylor and Randi Johnson, to the council. Senator Altamirano welcomed both and thanked them.

Members of the council, staff and the audience observed a moment of silence for Senator Rawson's father. A moment of silence was also observed for Chris Jaramillo, a former state police officer and lobbyist, who had recently passed away.

### **Interim Committee Work Plans and Budgets**

Interim committee work plans and budgets were presented by the appropriate LCS staff members. The council reduced a number of budget requests, but authorized the committees to return to the council to request additional money should it be necessary. A copy of each work plan and budget is attached to the original of these minutes.

The council had a lengthy discussion about assigning several items on the work plan of the Land Grant Committee to another interim committee. The council directed the chairs of the Land Grant Committee and the Water and Natural Resources Committee to communicate with one another regarding the transfer of the issues of fish poisoning concerns on the Rio Costilla and legislation on the transfer of domestic well water rights to mutual domestic water consumer associations to the Water and Natural Resources Committee. The council also assigned the issue of funding of mortgages on land grant common lands to the Mortgage Finance Authority Act Oversight Committee.

The council also discussed requests from several interim committees to hold meetings outside of the Capitol after September 30. Ms. Tackett explained that the Legislative Council policy regarding out-of-town meetings after September 30 was put in place to allow staff to have more time to re-draft bills for consideration by committees in October and November, when interim committees select legislation they will endorse during the upcoming legislative session. Additionally, the committees are beginning to finalize their committee actions and members often float between committees for necessary votes, which can only happen if they all meet in Santa Fe.

The council directed staff to notify the Land Grant Committee that it needs to rearrange its meeting schedule so that it would not be meeting outside of the Capitol in October.

The amended work plan and meeting dates and a budget of \$16,500 for voting members and \$19,611.63 for advisory members were approved.

The work plan and meeting dates of the Indian Affairs Committee, including a September meeting in Towaoc, Colorado, which staff explained is the home of the Ute Mountain Ute Tribe, and October meetings outside of the State Capitol, were approved as submitted. A budget of \$50,000 for voting members and \$36,268.71 for advisory members was also approved.

The work plan of the Mortgage Finance Authority Act Oversight Committee was amended to include the issue of funding of mortgages by the New Mexico Mortgage Finance Authority on land grant common lands, which was originally on the Land Grant Committee's work plan, and affordable housing for Native American tribes. The amended work plan was approved.

The meeting dates, including an October meeting outside of the Capitol, and a budget of \$10,500 for voting members and \$10,835.30 for advisory members were also approved.

The work plan and meeting dates for the Radioactive and Hazardous Materials Committee, including an October meeting in Grants for the purpose of receiving testimony on the issue of uranium mining, were approved as submitted.

A budget of \$25,000 for voting members and \$24,823.78 for advisory members was also approved.

The council discussed approval of a December meeting for the Revenue Stabilization and Tax Policy Committee. Ms. Tackett pointed out that it is the only committee authorized by statute to meet until December 15.

The council had a lengthy discussion about adding several items to the Revenue Stabilization and Tax Policy committee's work plan. It selected the following issues for the committee to study:

- review of New Mexico's liquor license laws;
- review of revenue enhancements being considered by the Funding Formula Study Task Force;
- limits on taxation and state expenditures to help protect taxpayers;
- delinquent property tax collection efforts; and
- dual taxation of fuel on Navajo land.

The amended work plan and meetings dates, including a two-day meeting in December, were approved. A budget of \$65,000 for voting members was also approved.

The newly named president of the University of New Mexico, David J. Schmidly, introduced himself to the committee and expressed his excitement at working with the legislature.

The meeting dates and work plan of the Investments and Pensions Oversight Committee were approved as submitted. A budget of \$15,000 for voting members and \$23,319.54 for advisory members was also approved.

The work plan for the Information Technology and Telecommunications Oversight Committee was approved as submitted. The council directed the committee to move its October meeting to the Capitol and approved the committee's request to allow the chair, vice chair and

ranking minority member to attend the Legislative Finance Committee's (LFC's) December meeting, when information technology budgets are heard. A budget of \$15,000 for voting members and \$18,800.89 for advisory members was also approved.

The work plan and meeting dates of the Los Alamos National Laboratory Oversight Committee were approved as submitted. A budget of \$7,500 for voting members and \$8,627.83 for advisory members was also approved.

The work plan of the Economic and Rural Development Committee was approved as submitted. The council directed the committee to move its October meeting to Santa Fe and authorized per diem and mileage payments for members of the committee wishing to attend the Courts, Corrections and Justice Committee's meeting regarding title loans. A budget of \$45,000 for voting members and \$58,321.94 for advisory members was also approved.

The work plan of the Water and Natural Resources Committee, including formation of a subcommittee to review water rights adjudication issues, the addition of the issues of fish poisoning concerns on the Rio Costilla and legislation on the transfer of domestic well water rights to mutual domestic water consumer associations, which were originally on the work plan of the Land Grant Committee, was approved.

In response to a question from Senator McSorley regarding the status of the *Aamodt* settlement, staff indicated that a memorandum could be prepared for the members of the council.

The committee's meeting dates were altered to allow for an October meeting in Santa Fe, rather than Aztec. A budget of \$48,000 for voting members and \$68,133.70 for advisory members was also approved.

The work plan of the Legislative Health and Human Services Committee, including authorization for two subcommittee meetings, was approved as submitted. The meeting dates, including a proposed meeting outside of the Capitol in October, were also approved as submitted. A budget of \$45,000 for voting members and \$73,840.30 for advisory members was also approved.

The work plan and meeting dates of the Welfare Reform Oversight Committee were approved as submitted. A budget of \$26,000 for voting members and \$23,773.15 for advisory members was also approved.

The work plan, meeting dates and a budget of \$5,175 for voting members and \$5,620 for advisory members of the Tobacco Settlement Revenue Oversight Committee were approved as submitted. The committee was also directed to review projections for the settlement fund for fiscal year 2008.

The work plan and a budget of \$26,640.80 for voting members and \$12,576.64 for advisory members for the Public School Capital Outlay Oversight Task Force were approved as

submitted. Staff noted that the committee's September meeting dates were in conflict with a meeting of the Council of State Governments and would likely have to be rescheduled.

The work plan and meeting dates of the Courts, Corrections and Justice Committee, including authorization for a subcommittee, were approved as submitted. A budget of \$40,000 for voting members and \$52,856.17 for advisory members was also approved as submitted. Per diem and mileage for members of the committee to attend a meeting of the Economic and Rural Development Committee to discuss title loans was also approved.

The work plan of the New Mexico Finance Authority (NMFA) Oversight Committee was amended to note that the Legislative Council directed the committee to focus on oversight of the NMFA, such as problems or obstacles confronting projects and the status of projects, rather than taking testimony as part of the capital outlay process.

The council discussed whether to allow the committee to hold a December meeting to review the list of projects produced by the NMFA for the Public Project Revolving Fund. The committee's meeting dates were changed to allow for a December meeting instead of one in October.

A budget of \$45,000 for voting members and \$87,632.13 for advisory members was also approved.

Staff noted that, traditionally, the Legislative Committee on Compacts and the Interim Legislative Ethics Committee do not develop work plans and budgets since they typically do not need to meet. However, staff pointed out that even though the Legislative Committee on Compacts was appointed during the 2007 session to review the renegotiated tribal gaming compacts, there still is some concern regarding issues the tribes have with horse racing tracks in New Mexico.

The council authorized \$5,000 for the Legislative Committee on Compacts should the committee need to meet this interim.

### **Other Committee Business**

Ethics Review:

Ms. Tackett provided the council with four potential options for developing and reviewing ethics-related legislation:

- designate an appropriate interim committee to review recommendations;
- create a subcommittee of the Legislative Council to make recommendations on ethics reform;
- have the Legislative Council modify the jurisdiction of the existing Interim Legislative Ethics Committee; and
- create a subcommittee of an existing committee to make recommendations on ethics reform.

The council discussed the various options, noting that it is important for the legislature to be involved in developing ethics legislation. Members of the council suggested appointing a subcommittee made up of the speaker, the president pro tempore and the majority and minority floor leaders and whips. However, Representative Martinez suggested that the subcommittee's recommendations would likely be better received if it is composed of equal numbers from both political parties to avoid the appearance of partisanship.

On a motion made, seconded and unanimously approved, the council appointed a subcommittee composed of the majority and minority floor leaders and whips to make recommendations on ethics legislation.

#### Per Diem and Mileage for Committee Attendance:

Staff presented the council with a proposed policy to allow members of the legislature to receive up to eight days of per diem and associated mileage for attending meetings of interim committees of which they are not members. The council discussed the proposal and whether eight meetings is too many. Speaker Lujan reminded the council that the policy was first discussed in conjunction with the council not appointing advisory members to interim committees.

It was suggested that chairs and vice chairs be allowed to attend other committee meetings for the purpose of educating themselves on issues relevant to their committees. Ms. Tackett pointed out that the council had already authorized the chair and vice chair of the Legislative Health and Human Services Committee to attend LFC meetings and be paid out of their committee's budget when the LFC has something scheduled relating to the jurisdiction of their committee.

Representative Taylor suggested that the number of committee meetings be reduced to four and that the policy be tried out as a pilot project that can be fixed if any unforeseen problems arise.

On a motion made, seconded and unanimously approved, the council approved a pilot project to allow members of the legislature to receive per diem and mileage payments for attendance at four days of interim committee meetings of which they are not members. The policy limitation would exclude travel days to and from the meeting.

#### Border Security Interim Committee:

Members of the council discussed the appointment of an interim committee to study border security issues. Several members expressed reservations about forming the committee, particularly because the large number of appointed interim committees already makes it difficult for senators to be able to attend meetings.

Speaker Lujan suggested that a six-member committee be appointed and allowed to meet only four times, after which the committee would report to the legislature on this important issue.

Senator Altamirano noted that it would be difficult for an interim committee to be able to resolve much of the border security problem.

It was moved and seconded that the Border Security Interim Committee be appointed. A roll call vote was requested. Representatives King, Lujan and Martinez and Senators Altamirano and Cisneros voted in favor of appointing the committee. Representative Wallace and Senators Ingle, Jennings and Michael S. Sanchez voted against the motion. Since a majority of senators voted against the motion, the motion failed.

Capital Outlay Subcommittee:

Senator Altamirano noted that the Capital Outlay Subcommittee had worked well during the last interim and suggested that the committee be reappointed. Senator Smith noted that the legislature needs to begin monitoring partially funded projects and to ensure that those projects that have already begun are completed before the legislature funds new ones.

On a motion made, seconded and approved, the Capital Outlay Subcommittee was reappointed, with Speaker Lujan voting NO.

Enrolling and Engrossing Errors:

Mr. Burciaga explained that three bills passed during the regular session had errors in them from the Senate enrolling and engrossing process. He noted that one of the bills had been pocket vetoed, but that the other two had been signed into law. Mr. Burciaga went on to explain that, in each case, House committees had struck Senate floor amendments, but that Senate enrolling and engrossing had read the committee amendments incorrectly and struck only item one of the Senate floor amendments, rather than the whole amendment.

In response to a question from Senator Sanchez, Mr. Burciaga indicated that it would be possible to fix the mistakes during the next legislative session.

Staff was directed to inform the sponsors of the bills of the problem.

Staff Reports:

Ms. Tackett presented the council with a proposed smoking policy for the Capitol grounds, noting that certain areas outside the Capitol and Capitol North that are away from entrances, exits and windows would be designated as smoking areas and that smoking would be prohibited in all other areas of the Capitol once the policy is adopted.

On a motion made, seconded and unanimously approved, the council adopted the smoking policy. The policy is attached to the original minutes.

Ms. Tackett pointed out that the council would need to name a replacement on the Funding Formula Study Task Force for Karen White, who is no longer working for the Gallup/McKinley County Schools. She indicated that Kilino Marquez had been recommended by the school administrator association to fill the vacancy.

On a motion made, seconded and unanimously approved, Kilino Marquez was appointed to the Funding Formula Study Task Force.

Mr. Burciaga indicated that the Health Coverage for New Mexicans Committee's contract with Mathematica Policy Research, Inc., had incurred \$60,000 in extra costs. He explained that the agreement for funding of the contract is for the legislature to pay for \$20,000 while the Human Services Department will pay the other \$40,000.

Mr. Burciaga explained that Mathematica was selected to analyze five separate models of increasing the number of New Mexicans with health insurance. He noted that the company studied actuarial costs, potential economic impact and individual expenses likely to be incurred by those covered for each model, and that Deborah Chollet had appeared before the Health Coverage for New Mexicans Committee to discuss each model.

It was suggested that Ms. Chollet, Mathematica's project manager for the contract with New Mexico, make a presentation of Mathematica's findings to the council. However, Representative Martinez suggested that she make a presentation before all the members of the legislature, pointing out that they will likely make decisions regarding health care coverage for 2 million New Mexicans.

Staff indicated that such a presentation would likely require another \$10,000 to be authorized by the council.

On a motion made, seconded and unanimously approved, \$30,000 was authorized for extra costs of the Mathematica contract and for Ms. Chollet to make a presentation before the whole legislature.

The council also authorized use of the House chambers for the Public Regulation Commission to hold a renewable energy workshop on September 14.

Ms. Tackett discussed the biennial function held by the Capitol Art Foundation. She explained that the party has traditionally been held during each 60-day session, but that the hectic nature of the legislative session often prevents many people from attending. Ms. Tackett indicated that the Capitol Art Foundation would like to hold the function on July 20 to allow more people to attend. She also pointed out that the Capitol Art Foundation and the Legislative Council have always jointly sponsored the "thank you" event.



On a motion made, seconded and unanimously approved, per diem and mileage for members wishing to attend the Capitol Art Foundation and Legislative Council's party was authorized.

Fiscal Year 2008 Budgets:

The council discussed budgets for the House and Senate chief clerks' offices and for the Legislative Council Service and went into executive session to discuss salary recommendations of those offices.